

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**CHAMBERS OF
MARK FALK
UNITED STATES MAGISTRATE JUDGE**

**USPO & COURTHOUSE
1 FEDERAL SQ., ROOM 457
NEWARK, NJ 07101
(973) 645-3110**

May 8, 2013

Mark S. Shane, Esq.
Shane & White, LLC
1676 Route 27
Edison, NJ 08817

James C. Dezao, Esq.
322 Route 46 West, Ste. 120
Parsippany, NJ 07054

**Re: Gaines v. Fusari, et al.
 Civil Action No. 11-4433 (WJM)**

Dear Counsel:

Discovery in this copyright case closed on April 29, 2013. The parties have requested an extension of discovery to May 31, 2013, which is **granted**.

In addition, numerous letters were received regarding a discovery dispute regarding whether Defendant Fusari can proceed with the depositions of Plaintiff's wife and daughter. Neither was identified in Plaintiff's initial disclosures or interrogatories. Defendant claims that they "may" have information relevant to the claims in this case. However, he has not in any way articulated the knowledge they may possess.

Plaintiff Gaines opposes the request to depose his family members. He attaches text messages from Defendant Fusari sent when the suit was in its infancy that could be characterized to threaten to force Plaintiff's wife and daughter into deposition if Plaintiff does not withdraw the case.

After receiving the recent correspondence, the Court conducted a telephone conference with counsel. Defendant Fusari pressed his request for the family member depositions and Plaintiff Gaines vigorously opposed such request.

The Court advised the parties of its inclination to deny the depositions as irrelevant and potentially harassing and also late. However, in fairness to the parties and to develop a complete record, the Court has permitted Defendant to propound ten (10) written questions directed to Plaintiff

to be served within seven (7) days and respond to within seven (7) days to attempt to clarify whether the proposed deponents have any relevant knowledge about the case.

After the written questions are answered, the parties may, if they choose, supplement their initial letters with double-spaced letters no longer than seven (7) pages that attach the questions and answers. If the dispute is not resolved, trial counsel are directed to appear before the Undersigned for oral argument on **Thursday, June 6, 2013 at 10:30 a.m.**

The parties are advised that given the nature of the dispute and other information before the Court, the Court will likely award costs and fees to the non-prevailing party pursuant to Rule 37.

SO ORDERED.

/s/ Mark Falk
Mark Falk
United States Magistrate Judge